

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

MAX REED, II,

Petitioner

V.

JEREMY BEAN,¹ *et al.*,

Respondents

Case No. 2:17-cv-00648-RFB-NJK

**Order Denying Motions to Withdraw
Counsel/Request for Status Hearing and
Granting Extension to File Opposition to
Motion to Dismiss**

Motion to Dismiss

(ECF Nos. 91, 92, 102)

28 U.S.C. § 2254 habeas corpus petitioner Max Reed, II, who is represented by the

15 Federal Public Defender (“FPD”), has filed a third *pro se* motion to withdraw counsel/request for
16 a status hearing. (Docketed as two motions at ECF Nos. 91, 92.) Reed previously filed a motion
17 for appointment of counsel in October 2018; this Court granted the motion and appointed the
18 FPD. ECF Nos. 15, 55. The FPD has filed a 76-page second amended petition that sets forth 17
19 grounds for relief. ECF No. 89. Reed now asserts that the FPD has violated his First and

²² According to the state corrections department's inmate locator page, Reed is incarcerated at High Desert State Prison. The department's website reflects Jeremy Bean is the warden for that facility and thus the proper respondent. *See Rule 2(a) of the Rules Governing Section 2254 Cases in the United States District Courts.* <https://ofdsearch.doc.nv.gov/form.php>.

1 Fourteenth Amendment rights by filing a second amended petition that is not based on the facts
2 of his case.

3 Pursuant to this Court's order, the FPD filed a response to petitioner's motions *in camera*
4 and under seal. See ECF No. 97. Counsel, mindful of her duties of confidentiality and privilege
5 to Reed, provided general information about her representation. She described careful
6 consideration of, and investigation into, all potential claims, as well as several meetings by video
7 between counsel, Reed, and the FPD investigator. Counsel states that nothing up to present has
8 negatively affected her ability to represent Reed and that she will continue to assess the attorney-
9 client relationship going forward.

10 The court notes that there is no constitutional right to appointed counsel for a federal
11 habeas corpus proceeding. Pennsylvania v. Finley, 481 U.S. 551, 555 (1987); Bonin v. Vasquez,
12 999 F.2d 425, 428 (9th Cir. 1993). And even in the context of an appeal as of right, an indigent
13 petitioner has no constitutional right that counsel raise even every nonfrivolous issue. Jones v.
14 Barnes, 463 U.S. 745, 751 (1983); see also Smith v. Robbins, 528 U.S. 259 (2000). In fact, the
15 role of advocate requires that counsel evaluate claims and issues and select the strongest claims
16 to press, in order that they not be lost among weaker, if colorable, claims. Jones, 463 U.S. at 751.
17 This Court is also mindful of the goals of the efficient and just resolution of Reed's federal
18 habeas matter. The Court remains unpersuaded that the FPD should withdraw from this case.
19 Thus, Reed's motion to withdraw counsel/request for status hearing is denied.

20 It is therefore ordered that petitioner's motion to withdraw counsel/request for status
21 hearing (ECF Nos. 91, 92) are both **denied**.

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1 It is further ordered that petitioner's unopposed motion for extension of time to file an
2 opposition to respondents' motion to dismiss (ECF No. 102) is **granted. The deadline is**
3 **extended to 60 days from the date of this order.**

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5 DATED: 27 September 2024.

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RICHARD F. BOULWARE, II
UNITED STATES DISTRICT JUDGE